

**In:** KSC-BC-2020-07

**The Prosecutor v. Hysni Gucati and Nasim Haradinaj**

**Before:** Trial Panel II

Judge Charles L. Smith, III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Nasim Haradinaj

**Date:** 28 January 2022

**Language:** English

**Classification:** Public

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**Corrected Version of Haradinaj Defence Written Submissions for the Next Status Conference, F00538**

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## I. INTRODUCTION

1. Pursuant to the Oral Order of 28 January 2022,<sup>1</sup> the Haradinaj Defence hereby submits its written observations on the Trial Panel's Agenda for Parties' Submissions on the Next Steps in the Proceedings issued on 20 January 2022,<sup>2</sup> ahead of the next status conference scheduled for 31 January 2022.
2. At paragraph 6 of the Agenda, in accordance with Rules 127, 133, 134, 135, 156 and 159(6) of the Rules of Evidence and Procedure before the Kosovo Specialist Chambers ("Rules"), the Trial Panel sets out a number of questions at (a) to (j).
3. The Haradinaj Defence will respond to those that pertain to its presentation of the case and will elaborate in oral submissions at the hearing of 31 January 2022.
4. Pursuant to paragraph 6(a) of the order, the Haradinaj Defence does not anticipate presenting any further evidence and does not advance any submissions in respect of the matters set out at paragraph 4(a)-(c).

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<sup>1</sup> KSC-BC-2020-07, Oral Order 28 January 2022, Page 3376, lines 9-13.

<sup>2</sup> KSC-BC-2020-07/F00527, Agenda for Parties' Submissions on the Next Steps in the Proceedings, 20 January 2022.

5. Pursuant to paragraph 6(c), the Haradinaj Defence reserves its position until such time as the Specialist Prosecutor's Office ("SPO") has confirmed its position as far as the presentation of any evidence in rebuttal.
6. Pursuant to paragraph 6(d), the Haradinaj Defence respectfully seeks to amend its previous estimate with regards to the period within which it intends to file its Final Trial Brief.<sup>3</sup> The Haradinaj Defence wishes to avail of the thirty (30) days following the closing of the evidentiary proceedings as provided under Rule 134(b) of the Rules. On the basis that it is anticipated, subject to the resolution of the ongoing disclosure challenge, the Defence case will be formally closed at the beginning of February 2022, the Final Trial Brief would be filed in the first week of March 2022.
7. The Haradinaj Defence is prepared to expand on the reasons for why the time schedule has been revised, but in brief, the case as presented is more extensive, with expert evidence to consider, that will require additional time.
8. Further, pursuant to paragraph 6(e), the Haradinaj Defence seeks to amend its previous estimate with regards to the period for closing statements. It is anticipated that a period of fourteen (14) days would be more realistic.

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<sup>3</sup> KSC-BC-2020-07, Transcript, 2 December 2021, pp 2093-2094.

9. Pursuant to paragraph 6(f), the Haradinaj Defence does not anticipate its closing statement to exceed a half-day pursuant to Rule 135 (1) of the Rules.
10. Pursuant to paragraph 6(g), having considered the position of Mr Haradinaj and in the interest of expediting the proceedings, the Haradinaj Defence adopts the list of thirteen facts that have been agreed upon during the pre-trial stage by the Gucati Defence and the SPO pursuant to Rule 156 of the Rules.<sup>4</sup> The Haradinaj Defence notes that this is in addition to the three facts that have already been agreed upon between the Haradinaj Defence and the SPO during the pre-trial stage.<sup>5</sup> The Haradinaj Defence takes the view that while no additional facts have been agreed between the parties, it has no opposition to making all the agreed facts, referred to above, public.
11. With regards to Rule 159(6) of the Rules, the Haradinaj Defence submits that it will advance oral submissions on the question set out in paragraph 7 of the Order as this will impact both the time and word limit of the Final Trial Brief.

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<sup>4</sup> KSC-BC-2020-07/F00262/A01, Specialist Prosecutor, Prosecution Submissions on Points of Agreement on Matters of Fact, 14 July 2021, p. 2, confidential; KSC-BC-2020-07/F00258/A03, Gucati Defence, List of Any Proposed Agreements on Points of Law or Fact, 12 July 2021, confidential. An additional fact was agreed upon during the trial stage; and KSC-BC-2020-07/F00487/RED, Gucati Defence, Public Redacted Version of Defence Request for Admission of Items through the Bar Table, 17 December 2021, para. 4.

<sup>5</sup> KSC-BC-2020-07/F00262/A01, Specialist Prosecutor, Prosecution Submissions on Points of Agreement on Matters of Fact, 14 July 2021, p. 3, confidential; KSC-BC-2020-07/F00260/RED, Haradinaj Defence, Public Redacted Submission of Interim Pre-Trial Brief on behalf of the Defence of Nasim Haradinaj, 12 July 2021, para. 302.

**CORRECTION:**

Paragraph 9 - tracked changes removed and duplicated "half day" deleted.

Paragraph 11 – tracked changes removed and "of" in the first sentence deleted.

from paragraphs 9, 11

Word count: 793



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